

AMENDED IN ASSEMBLY JULY 15, 2004

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN SENATE MAY 13, 2004

SENATE BILL

No. 1544

Introduced by Senator Figueroa

(Coauthors: Senators Aanestad and Vincent)

(Coauthors: Assembly Members Correa, Nation, and Runner)

February 19, 2004

An act to amend Section 94999 of, and to add and repeal Section 94779.2 of, the Education Code, relating to private postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1544, as amended, Figueroa. Private postsecondary education: Private Postsecondary and Vocational Education Reform Act of 1989.

(1) Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. A provision of the act provides for its repeal on January 1, 2005.

The existing act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The existing act specifies that certain

violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes.

This bill would require the Director of Consumer Affairs to appoint a Bureau of Private Postsecondary and Vocational Education Operations and Administrative Monitor by ~~December 31, 2004~~ January 3, 2005. The bill would require the monitor to, among other things, assess the bureau's administrative operations and to submit a report to the director, the bureau, and the Legislature by October 1, 2005. Those monitor provisions would become inoperative on April 1, 2006, and would be repealed as of January 1, 2007. ~~The~~

The bill would appropriate \$150,000 from the Private Postsecondary and Vocational Education Administration Fund to the Director of Consumer Affairs for expenditure for the 2004–05, 2005–06, and 2006–07 fiscal years for the purpose of contracting for the employment of the monitor.

This bill would also require ~~that~~ the act to become inoperative on July 1, 2007, and thereafter be repealed on January 1, 2008, thus extending operation of the act by 2~~–~~¹/₂ years, and thereby making an appropriation by extending the existence of the continuously appropriated Student Tuition Recovery Fund. ~~By~~

By extending the operation of the provisions of the act that establish crimes, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *Section 94779.2 is added to the Education*
- 2 *Code, to read:*
- 3 94779.2. (a) (1) The Director of Consumer Affairs shall
- 4 appoint a Bureau ~~of~~ *for* Private Postsecondary and Vocational
- 5 Education Operations and Administrative Monitor no later than
- 6 ~~December 31, 2004~~ *January 3, 2005*. The director may retain a
- 7 person for this position by a personal services contract. In this

connection, the Legislature finds, pursuant to Section 19130 of the Government Code, that this is a new state function.

(2) The director shall supervise the operations monitor and may terminate or dismiss him or her from this position.

(b) The director shall advertise the availability of this position. The requirements for this position shall include experience in ~~performing audits of or operating state administrative regulatory agencies~~ *conducting investigations*, familiarity with state laws, rules, and procedures pertaining to the bureau, and familiarity with relevant administrative procedures.

(c) (1) The operations monitor shall assess the bureau's administrative operations, including its school approval, applicant review, revenue collection, and complaint and enforcement processes and procedures with the primary ~~goal~~ *goals* of improving the bureau's overall efficiency ~~and, improving its effectiveness, and improving its compliance with state laws, particularly with respect to the bureau's approval, complaint, and enforcement processes.~~

(2) This monitoring duty shall be on a continuing basis for a period of no more than two years from the date of the operations monitor's appointment and shall include, but not ~~be limited to, improving the quality and consistency of~~ *necessarily be limited to, all of the following:*

(A) *Assessing the bureau's revenue collections and needs, and its staffing.*

(B) *Evaluating the relevant laws and regulations to identify revisions that would improve state regulation and maintain or improve student and public protection.*

(C) *Improving the quality and consistency of the bureau's processes and performance, including complaint processing and investigation and reducing timeframes for each, reducing, and reducing timeframes for each.*

(D) *Reducing any complaint backlog, and ensuring.*

(E) *Ensuring consistency in the application of sanctions or discipline imposed on regulated institutions and persons. Further, this monitoring duty shall include, but not be limited to, improving persons.*

(F) *Improving the quality and timeliness of application and approval processes for regulated institutions and persons, the collection of fees, and the collection of information from, and the*

1 ability to disseminate information regarding, those entities or
2 ~~person regulated by the bureau, and improving~~ *persons regulated*
3 *by the bureau.*

4 (G) *Improving* the bureau's ability to perform outreach to
5 prospective students of private postsecondary and vocational
6 educational institutions.

7 (3) The operations monitor shall exercise no authority over the
8 bureau's management or staff; however, the bureau and its staff
9 shall cooperate with him or her, and shall provide data,
10 information, and files as requested by the monitor to perform all
11 of his or her duties.

12 (4) The director shall assist the operations monitor in the
13 performance of his or her duties, and the operations monitor shall
14 have the same investigative authority as the director.

15 (d) The operations monitor shall submit an initial written report
16 of his or her findings and conclusions to the director, the bureau,
17 and the Legislature no later than October 1, 2005, and every six
18 months thereafter, and shall be available to make oral reports to
19 each if requested to do so. The operations monitor may also
20 provide additional information to either the department or the
21 Legislature at his or her discretion or at the request of either the
22 department or the Legislature. The operations monitor shall make
23 his or her reports available to the public and the media. The
24 operations monitor shall make every effort to provide the
25 department and the bureau with an opportunity to reply to any
26 facts, finding, issues, or conclusions in his or her reports with
27 which the department or the bureau may disagree.

28 (e) The bureau shall reimburse the department for all of the
29 costs associated with the employment of an operations manager.

30 (f) This section shall become inoperative on April 1, 2006, and,
31 as of January 1, 2007, is repealed, unless a later enacted statute,
32 that becomes operative on or before January 1, 2007, deletes or
33 extends the dates on which it becomes inoperative and is repealed.

34 SEC. 2. Section 94999 of the Education Code is amended to
35 read:

36 ~~This~~

37 94999. *This* chapter shall become inoperative on July 1, 2007,
38 and, as of January 1, 2008, is repealed, unless a later enacted
39 statute, that becomes operative on or before January 1, 2008,

1 deletes or extends the dates on which it becomes inoperative and
2 is repealed.

3 SEC. 3. *The sum of one hundred fifty thousand dollars*
4 *(\$150,000) is hereby appropriated from the Private Postsecondary*
5 *and Vocational Education Administration Fund, established*
6 *pursuant to Section 94932 of the Education Code, to the Director*
7 *of Consumer Affairs for expenditure for the 2004–05, 2005–06,*
8 *and 2006–07 fiscal years for the purpose of contracting for the*
9 *employment of a Bureau for Private Postsecondary and*
10 *Vocational Education Operations and Administrative Monitor*
11 *pursuant to Section 94779.2 of the Education Code.*

12 SEC. 4. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

